

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALEX DUNTE GREEN,

Defendant.

4:20CR3008

ORDER

After conferring today with counsel by telephone regarding the jury trial set to commence on Monday, August 17, 2020, I will enter this order to provide for a smooth trial. I appreciate the assistance of counsel.

IT IS ORDERED that:

1. Counsel shall confer and try to reach agreement regarding the admissibility of the text messages and phone conversations. Counsel shall advise me as soon as reasonably possible whether they are able to reach agreement.
2. Counsel for the defendant told me that he had no objection to the admissibility of the text messages and phone conversations providing (a) such evidence could not be considered by the jury to prove the truth of the matter asserted therein but rather to explain why the government agents did what they did including instructing the confidential information and making the stop and (b) that I give a limiting instruction. Absent agreement between the government and the defense, I tentatively agree with defense counsel that this is the way these evidentiary issues will be handled except to the extent provided in the following paragraph.
3. Should the government desire to offer these texts and phone conversations into evidence for the truth of the matter asserted, it will likely need to (a)

reveal the identity of the confidential informant; (b) call the confidential informant to testify and (c) call the person (Beyer) to testify whose phone was allegedly used and who was allegedly participating with the defendant at the times the texts and phone calls were made and received.

4. If the government desires to have the confidential informant testify it shall promptly reveal the informant's identity and criminal history.
5. The foregoing stated, I have not made up my mind on these evidentiary issues but provide these preliminary thoughts to assist counsel as they prepare.
6. I will examine the defendant on the day trial is set to begin but before the jury is selected to ascertain that he is then competent. Counsel for the defendant should compile such medical records as he can so that I may receive them into evidence at that time for purposes of addressing the competency issue.

Dated this 30th day of July, 2020.

BY THE COURT:

Richard G. Kopf
Richard G. Kopf
Senior United States District Judge